

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

LEIGHTON TECHNOLOGIES LLC,

Plaintiff and Counterclaim Defendant,

v.

OBERTHUR CARD SYSTEMS, S.A.,

Defendant and Counterclaim Plaintiff.

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) 04 Civ. 02496 (CM)(LMS)
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) Hon. Colleen McMahon
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**PLAINTIFF'S BRIEF IN OPPOSITION TO
DEFENDANT'S MARKMAN BRIEF**

G. “Minimal First Ram Pressure”

Defendant posits that a “minimal first ram pressure” means “little or no pressure . . . but in no event a ram pressure more than about 10 pounds per square inch.” Def. Br. at 35. Plaintiff submits that

“minimal first ram pressure” means “little or no pressure and does not include an upper limit.”

Plaintiff agrees with Defendant that the ordinary meaning of “minimal” is “the least possible.” Def. Br. at 36. This ordinary meaning is consistent with the patent specifications. For example, the ‘207 Patent describes the minimal pressure as “little or no ram pressure to book 35.” A6, Col. 4:41-44. The ‘099 Patent specification teaches “preferably applying little or no ram pressure” wherein “a pressure not to exceed about 10 pounds per square inch is believed sufficient for most applications.” B8, Col. 5:56-61 (emphasis added).

Plaintiff, however, submits that a cap of 10 pounds per square inch is improper. Indeed, the words of the claims do not provide a specific pressure range. The ‘207 Patent specification does not even disclose a specific pressure. The ‘099 Patent specification teaches that “10 pounds per square inch is believed sufficient for most applications.” *Id.* It does not indicate a cap on the pressure for all applications as Defendant would have the Court require. Nor does it preclude the use of a higher pressure for other applications. Patents are written to enable those skilled in the art to practice the invention without undue experimentation. Such a skilled artisan would easily determine -- for a given and intended application -- what the “minimal ram pressure” would be so that the desired result could be achieved.

The Court should therefore reject Defendant’s construction.